

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

UNITED STATES OF AMERICA,
Plaintiff,

v.

TOVI ROSE MESICK,
Defendant.

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Docket No. 2:20-cr-0008

**RESPONSE IN OPPOSITION OT MOTION FOR RETURN OF PROPERTY TO THIRD
PARTY**

The United States of America, by and through its attorney, Jonathan A. Ophardt, Acting United States Attorney for the District of Vermont, hereby opposes defendant Tovi Rose Mesick's Motion for Return of Property to Third Party. While the government agrees release of the firearms to a third party may be appropriate in this case, it does not believe Ms. Mesick's mother can evaluate successfully both when Ms. Mesick expunges her current prohibiting conviction and when she abstains from marijuana use. For this reason, the government opposes release of the seized firearms to Ms. Mesick's mother.

Ms. Mesick is in her late thirties and has struggled with mental health and substance abuse since her military service concluded. Her motion for release of firearms provides no information as to how her mother would be able to evaluate whether Ms. Mesick is continuing to use controlled substances or whether the state has expunged her prohibiting conviction. Defense counsel has been able to identify no third party who could conduct an independent evaluation of Mesick's qualifications for firearms possession.

The government therefore asks that the Court allow law enforcement to retain the firearms until such time as Ms. Mesick's prohibitions against possession of them are lifted, or

that the Court order the firearms sold through a federally licensed firearms dealer with the proceeds to go to Ms. Mesick, rather than place the burden of monitoring Ms. Mesick's eligibility to possess firearms on her mother.

For these reasons, the government opposes Ms. Mesick's motion for return of property.

Dated at Burlington, in the District of Vermont, this 22nd day of November 2021.

UNITED STATES OF AMERICA

JONATHAN A. OPHARDT
Acting United States Attorney

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